

M&amp;G 11694.7US11

MERCHANT, GOULD, SMITH, EDELL, WELTER &amp; SCHMIDT

## United States Patent Application

## COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: **DEVICE FOR DELIVERING LOCALIZED X-RAY RADIATION TO AN INTERIOR OF A BODY AND METHOD OF MANUFACTURE.**

The specification of which

- a. ☐ is attached hereto
- b. ☒ is entitled **DEVICE FOR DELIVERING LOCALIZED X-RAY RADIATION TO AN INTERIOR OF A BODY AND METHOD OF MANUFACTURE**, having an attorney docket number 11694.7US11.
- c. ☐ was filed on \_\_\_\_\_ as application serial no. \_\_\_\_\_ and was amended on \_\_\_\_\_ (if applicable) (in the case of a PCT-filed application) described and claimed in international no. \_\_\_\_\_ filed \_\_\_\_\_ and as amended on \_\_\_\_\_ (if any), which I have reviewed and for which I solicit a United States patent.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56 (attached hereto).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

- a. ☒ no such applications have been filed.
- b. ☐ such applications have been filed as follows:

FOREIGN APPLICATION(S), IF ANY, CLAIMING PRIORITY UNDER 35 USC § 119			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)
ALL FOREIGN APPLICATION(S), IF ANY, FILED BEFORE THE PRIORITY APPLICATION(S)			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)

I hereby claim the benefit under Title 35, United States Code, § 120/365 of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

U.S. PROVISIONAL APPLICATION NUMBER	DATE OF FILING (Day, Month, Year)
60/002,722	24 August 1995
60/006,708	14 November 1995

I hereby appoint the following attorney and/or patent agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

Adriano, Sarah B.	Reg. No. 34,470	Kowalchyk, Alan W.	Reg. No. 31,535
Batzli, Brian H.	Reg. No. 32,960	Kowalchyk, Katherine M.	Reg. No. 36,848
Beard, John L.	Reg. No. 27,612	Krull, Mark A.	Reg. No. 34,205
Beck, Robert C.	Reg. No. 28,184	Lacy, Paul A.	Reg. No. 38,946
Bejin, Thomas E.	Reg. No. 37,089	Lasky, Michael B.	Reg. No. 29,555
Berman, Charles	Reg. No. 29,249	Lynch, David W.	Reg. No. 36,204
Bogucki, Raymond A.	Reg. No. 17,426	Mau, Michael L.	Reg. No. 30,087
Bruess, Steven C.	Reg. No. 34,130	McDaniel, Karen D.	Reg. No. 37,674
Byrne, Linda M.	Reg. No. 32,404	McDonald, Daniel W.	Reg. No. 32,044
Canady, Karen S.	Reg. No. 39,927	McDonald, Wendy M.	Reg. No. 32,427
Carlson, Alan G.	Reg. No. 25,959	McIntyre, Iain A.	Reg. No. 40,377
Carter, Charles G.	Reg. No. 35,093	Miller, William D.	Reg. No. 37,988
Caspers, Philip P.	Reg. No. 33,227	Mueller, Douglas P.	Reg. No. 30,300
Chiapetta, James R.	Reg. No. 39,634	Nasiedlak, Tyler L.	Reg. No. 40,099
Clifford, John A.	Reg. No. 30,247	Nelson, Albin J.	Reg. No. 28,650
Conrad, Timothy R.	Reg. No. 30,164	Pauly, Daniel M.	Reg. No. 40,123
Cooper, Victor G.	Reg. No. 39,641	Plunkett, Theodore	Reg. No. 37,209
Crawford, Robert	Reg. No. 32,122	Pollinger, Steven J.	Reg. No. 35,326
Daignault, Ronald A.	Reg. No. 25,968	Reich, John C.	Reg. No. 37,703
Daley, Dennis R.	Reg. No. 34,994	Reiland, Earl D.	Reg. No. 25,767
Daulton, Julie R.	Reg. No. 36,414	Schmaltz, David G.	Reg. No. 39,828
Davidson, Ben M.	Reg. No. 38,424	Schmidt, Cecil C.	Reg. No. 20,566
DiPietro, Mark J.	Reg. No. 28,707	Schuman, Mark D.	Reg. No. 31,197
Edell, Robert T.	Reg. No. 20,187	Schumann, Michael D.	Reg. No. 30,422
Epp Ryan, Sandra	Reg. No. 39,667	Sebald, Gregory A.	Reg. No. 33,280
Farber, Michael B.	Reg. No. 32,612	Sharp, Janice A.	Reg. No. 34,051
Funk, Steven R.	Reg. No. 37,830	Skoog, Mark T.	Reg. No. 40,178
Gabilan, Mary Susan	Reg. No. 38,729	Smith, Jerome R.	Reg. No. 35,684
Gates, George H.	Reg. No. 33,500	Stinebruner, Scott A.	Reg. No. 38,323
Golla, Charles E.	Reg. No. 26,896	Sumner, John P.	Reg. No. 29,114
Gorman, Alan G.	Reg. No. 38,472	Sumners, John S.	Reg. No. 24,216
Gould, John D.	Reg. No. 18,223	Tellekson, David K.	Reg. No. 32,314
Gresens, John J.	Reg. No. 33,112	Underhill, Albert L.	Reg. No. 27,403
Hamre, Curtis B.	Reg. No. 29,165	Vandenburgh, J. Derek	Reg. No. 32,179
Hillson, Randall A.	Reg. No. 31,838	Welter, Paul A.	Reg. No. 20,890
Hollingsworth, Mark A.	Reg. No. 38,491	Williams, Douglas J.	Reg. No. 27,054
Johnston, Scott W.	Reg. No. 39,721	Wood, Gregory B.	Reg. No. 28,133
Kastelic, Joseph M.	Reg. No. 37,160	Xu, Min S.	Reg. No. 39,536
Kettelberger, Denise	Reg. No. 33,924		

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/organization who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Merchant, Gould, Smith, Edell, Welter & Schmidt to the contrary.

Please direct all correspondence in this case to Merchant, Gould, Smith, Edell, Welter & Schmidt at the address indicated below:

Merchant, Gould, Smith, Edell,  
Welter & Schmidt  
3100 Norwest Center  
90 South Seventh Street  
Minneapolis, MN 55402-4131

I hereby declare that all statements herein of my own knowledge are true and that statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2	Full Name Of Inventor	Family Name Chornenky	First Given Name Victor	Second Given Name I.
0	Residence & Citizenship	City Minnetonka	State or Foreign Country Minnesota	Country of Citizenship U.S.A.
1	Post Office Address	Post Office Address 5525 Mayview Road	City Minnetonka	State & Zip Code/Country Minnesota 55345/U.S.A.
Signature of Inventor 201: <i>Victor Chornenky</i>			Date: <i>2/25/97</i>	
2	Full Name Of Inventor	Family Name Forman	First Given Name Michael	Second Given Name R.
0	Residence & Citizenship	City St. Paul	State or Foreign Country Minnesota	Country of Citizenship U.S.A.
2	Post Office Address	Post Office Address 2026 Pinehurst Avenue	City St. Paul	State & Zip Code/Country Minnesota 55116/U.S.A.
Signature of Inventor 202: <i>Michael R. Forman</i>			Date: <i>Feb. 25, 1997</i>	
2	Full Name Of Inventor	Family Name	First Given Name	Second Given Name
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3	Post Office Address	Post Office Address	City	State & Zip Code/Country
Signature of Inventor 203:			Date:	
2	Full Name Of Inventor	Family Name	First Given Name	Second Given Name
0	Residence & Citizenship	City	State or Foreign Country	Country of Citizenship
4	Post Office Address	Post Office Address	City	State & Zip Code/Country
Signature of Inventor 204:			Date:	
2	Full Name Of Inventor	Family Name	First Given Name	Second Given Name
0	Residence & Citizenship	City	State or Foreign Country	Country of Citizenship
5	Post Office Address	Post Office Address	City	State & Zip Code/Country
Signature of Inventor 205:			Date:	

# § 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
  - (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.
- (b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and
- 1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim;
  - or
  - 2) It refutes, or is inconsistent with, a position the applicant takes in:
    - (i) Opposing an argument of unpatentability relied on by the Office, or
    - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

- (c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:
- (1) Each inventor named in the application;
  - (2) Each attorney or agent who prepares or prosecutes the application; and
  - (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Victor Ivan Chornenky, *et al.*

Appl. No. Not Yet Assigned

Filed: On a date herewith

For: **Device for Delivering Localized X-Ray  
Radiation and Method of Manufacture**

Art Unit:

Examiner:

Atty. Docket: P775 CON 3

**Revocation of Prior Power of Attorney and Appointment of New  
Attorneys of Record**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

The undersigned, having express authority to represent Medtronic AVE, Inc., the assignee of the entire right, title, and interest in the above-captioned application, hereby revokes all powers of attorney heretofore given in the above-captioned application and appoints as its attorneys: Catherine C. Maresh, 35,268; Michael J. Jaro, Registration No. 34,472; Janis J. Biksa, Registration No. 33,648 and James F. Crittenden, Registration No. 39,560, with full power of substitution, association, and revocation, to prosecute said application and to transact all business in the United States Patent and Trademark Office connected therewith.

The undersigned hereby grants said attorneys the power to insert on this Power of Attorney any further identification that may be necessary or desirable in order to comply with the rules of the U.S. Patent and Trademark Office.

Send all correspondence to:

IP Legal  
MEDTRONIC AVE, INC.  
3576 Unocal Place  
Santa Rosa, California 95403

Direct telephone calls to Catherine C. Maresh at (707) 543-0221.

On behalf of **Medtronic AVE, Inc.:**

FOR: Medtronic AVE, Inc.

SIGNATURE: *Catherine C. Maresh*

BY: Catherine C. Maresh

TITLE: Patent Counsel

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Victor Ivan Chormenky, *et al.*

Appl. No. 09/123,669

Filed: July 28, 1998

For: Device for Delivering Localized X-Ray  
Radiation and Method of Manufacture

Art Unit: 3734

Examiner: Not Yet Assigned

Atty. Docket: P775 CON 1

**Revocation of Prior Power of Attorney and Appointment of New  
Attorneys of Record**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

The undersigned, having express authority to represent Medtronic AVE, Inc., the assignee of the entire right, title, and interest in the above-captioned application, by assignment dated June 23, 1997 and by merger dated January 31, 2000, (attached herewith), hereby revokes all powers of attorney heretofore given in the above-captioned application and appoints as its attorneys: Richard L. Klein, Registration No. 33,330; Susan M. Schmitt, Registration No. 34,427; Catherine C. Maresh, 35,268; Deanna J. Shirley, Registration No. 39,026; and James F. Crittenden, Registration No. 39,560, with full power of substitution, association, and revocation, to prosecute said application and to transact all business in the United States Patent and Trademark Office connected therewith.

The undersigned hereby grants said attorneys the power to insert on this Power of Attorney any further identification that may be necessary or desirable in order to comply with the rules of the U.S. Patent and Trademark Office.

Send all correspondence to:

Richard L. Klein  
MEDTRONIC AVE, INC.  
3576 Unocal Place  
Santa Rosa, California 95403

Direct telephone calls to Catherine C. Maresh at (707) 543-0221.

On behalf of Medtronic AVE, Inc.:

FOR: Medtronic AVE, Inc.

SIGNATURE:

BY: Richard L. Klein

TITLE: Chief Patent Counsel and  
Vice President